

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

June 11, 2008

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Ron Rubin on Wednesday, June 11th, 2008 at 7:05 pm.

Roll Call:	Ron Rubin	Present
	Glen Herbert	Present
	Mike Steppe	Present
	Jim Bird	Present
	Jim Crevelling	Present
Alternate	John Hoffer	Present
Alternate	Ed Seus	Excused

Others present included: Gerald Kernahan, Chad Kernahan, Mary Worboys, Timothy Curtin, Michael Goodman, Mr. & Mrs. Rogers Williams, Efrim Adnopo, Dale Lane, Mr. Lin Hough, Ray Davison, and other interested citizens.

A motion was made by J. Bird and seconded by J. Crevelling to approve the May minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Letters sent to the Board of Appeals with regards to Application #932 were copied and distributed to board members with copies on file with the application.

OLD BUSINESS

Application #929 for Dennis and Penny Murphy owning property at 2966 Rt 54A Penn Yan, NY 14527 to request a Special Use Permit to operate Murphy's Corner Market on the first floor with an apartment for single family residence on the 2nd floor.

Mr. Gerald Kernahan, P.E. was present to represent the Murphys and to answer questions for board members.

It was noted that this application had been reviewed by the Yates County Planning Board which had recommended approval of this request.

The Jerusalem Planning Board reviewed this application at their meeting on June 5th, 2008. They reviewed the short EAF form. Based on their review (noting that the new septic system design has been approved by KWIC), the board determined that the action will not result in any adverse environmental impacts and therefore made a negative declaration.

The Planning Board also approved the site plan (dated 4/11/08) signed by G.Kernahan P.E. which addresses: #1 Business/apartment plan; #2 Ingress/egress; #3 Parking; #4 Hours of Operation, and it was suggested that low impact lighting be added as part of this plan.

In passing on their recommendations for approval of the Special Use request, the Planning Board noted that all building renovations including market septic system are completed for both the market and the apartment and approved by the Town of Jerusalem CEO's in accordance with all Town of Jerusalem building codes.

Board members reviewed the site map with regards to the parking. Mr. Kernahan noted that the Murphy's do intend to stripe the area for their store/customer parking, noting that there is parking space out in back for the rental apartment. It was noted that the area around the DAR monument out in front of the store is owned by NYS and while there was concern for anyone parking on the grass in this area, it is not up to the Murphys to regulate this area since it does not belong to them and they do not recognize any of this area for customer parking.

Board members asked about the status of the current septic system and the location of the new proposed market septic system. It was noted by Mr. Kernahan that the current store property and the property where the Murphys live are on separate tax map parcels sharing the same leaching area. The lot where the new market septic system is supposed to be located is on a separate tax map parcel.

This issue raised concerns by Zoning Board members that by being on three separate tax map parcels, the owner could sell the land having the septic system separately from the store/market. Upon further discussion, board members determined that at least the market/apartment property needed to become one with all or a portion of the parcel where the new septic system and leach field area are to be located. This will be a decision of the Murphys as to how they wish to put these properties together on one deed.

It was noted that this would need to be done as well as the septic system in place(per the Planning Board) before the store could open for business.

The other alternative to this problem would be a public sewer system if it were to be brought to the side of NYS Rt 54A where Murphy's Corner Market is located.

A motion was made by J.Bird and seconded by R.Rubin to approve the Special Use Permit as per the submitted application along with the conditions as set forth by the Planning Board, and per the approved final site plan. In addition, that the present deeded lot where the corner market is located be brought together by deed with the portion of the lot area behind the corner market lot that is to be used for the market septic system, making them one deeded lot.

The proposed “Murphy’s Corner Market” having previously been a business with building and zoning code issues will be cleaned up and brought into compliance as part of the approval and granting of this special use permit.

The motion was carried with a poll of the board as follows: M.Steppe-approve, J.Crevelling-grant, G.Herbert-grant, R.Rubin-grant, J.Bird-approve.

Application #931 for Mary Worboys Curtin owning property at 1205 East Bluff Dr. to request an Area Variance to build a conforming boathouse on a lot which was previously created, non-conforming by a former owner of this property.

This application was tabled from the May meeting in order for the Zoning Chairman to get legal counsel from the Town Attorney regarding the granting of this application and the imposing of conditions on the area variance.

Chairman R.Rubin had been in contact with the Attorney regarding the questions that had come up at the May meeting and the attorney had sent a partial response. In summary, the attorney’s reply regarding this particular variance was that, any conditions that would be put on this building would be for the current owners and not binding on future owners since the variance request is specific to the creation of a non-conforming lot after the adoption of zoning. The attorney requested more time to research this matter of the non-conforming lot and if it was created knowingly by a prior owner specifically so that it could not be built on and could this be proven by the records.

The applicant, Ms. Worboys, asked if they could be notified before the next meeting if the attorney’s reply was not yet available so that they would not have to come. The Zoning Secretary stated that she would notify the applicant if an answer was received from the attorney in time for the next meeting.

Chairman R.Rubin asked if there was anyone else wishing to speak on this application. A neighbor, Mr. Dave Hamlin, gave a brief review of what he had already stated at the May meeting as well as referencing the letter which the board had received at the May meeting and is on file with the application.

Mr. Curtin was concerned that the public hearing part of this application review had already taken place and was closed at the May meeting. Board Member G.Herbert stated for the record that the board members were looking carefully at this application with regards to the boathouse as per the application as well as how the lot was created and that is why they had decided to table it to seek legal counsel.

A motion was made by R.Rubin and seconded by J.Bird to table any further action on this application until the Town Attorney has had time to further research this issue.

The motion was carried unanimously(5-yes, 0-no).

NEW BUSINESS

Application #932 for Rodgers Williams owning property at 369 West Bluff Dr. requesting an area variance to build a garage on the upper side of West Bluff Dr. with a height greater than what zoning allows. In addition, the applicant stated that they wished to build the garage into the bank to allow for as much room to drive up and into the garage and to allow room for backing out onto their own property so as to be able to drive forward onto West Bluff Dr. This is mainly for safety purposes as there is a hill to just to the south and sometimes the cars traveling this road are going faster than the 25 mile per hour speed limit posted. Mr. Williams stated that by building into the bank it would be a lower profile of the building with respect to the neighbors east of the proposed location of the garage. He noted that he had been informed earlier in the day that he would also need a rear yard area variance since the setback to the east was only 20 ft. and zoning requires 30 ft. in the R1 zone.

Two letters of correspondence had been received and copied to the board members with copies placed on file with the application.

Chairman R. Rubin asked if there was anyone wishing to speak to this application. The neighbor to the north and east, Mr. Goodman, who had also submitted a letter, gave just a brief summary of his letter and his concerns. His main concerns were whether or not a buffer of any kind would be placed between the garage and his property and the other concern was for the stabilization of the bank where it has already been excavated and some of the bank has already sloughed off.

Mr. Williams noted that there were plans to build a retaining wall to shore up the bank and that extensive landscaping was planned for when the building project was completed.

Board members asked if the setback distances measured for variance purposes included roof overhangs. It was concluded that the overhangs were not included. There were questions about the height of the bank and whether or not a retaining wall could be built high enough as part of the garage wall and still retain the bank.

Again there were questions about the setback distances being requested for the rear yard variance and whether or not there was adequate setback for the front yard as required by zoning.

Board members were reluctant to review this application any further until it could be determined exactly where the garage would be located and the actual setback variance requirements that are being requested.

Mr. Williams stated that he originally had intended to build a bigger garage but it had been downsized due to the leach field area.

Board Member G.Herbert stated that he wanted to see actual dimensions and location of the proposed garage in relation to everything else on the lot including the distances to the front and rear yard property lines showing what requested variances are needed.

The second issue is that of the exposed bank, how it is going to be retained/maintained if the proposed structure is not part of the means by which the bank is to be held back and any portion of the bank that is left exposed. It was suggested that at least the applicant could consult with an engineer and have some ideas of how these concerns can be met.

Another neighbor, R.Davison, had some concerns with regards to an existing gully that is located on the north side of this property and how close the garage will be to it.

Chairman R.Rubin stated that any variance request would be conditioned on the drawings of stamped engineer designs for the stabilization, retention and maintenance of the bank. He requested that the applicant come back with accurate measurements of the garage, its proposed height and location showing accurate measurements from the rear yard lot line and from the center line of the road. All measurements need to be from closest point of the garage including roof overhangs.

When asked about the second story use of the proposed garage, Mr. Williams stated that it was going to be used for storage and for a workshop. There would be no plumbing in or out, only electric.

A motion was made by J.Bird, seconded by M.Steppe to table this application until the July meeting for the applicant to provide more information for the board. Motion was carried unanimously (5-yes, 0-no).

Application #933 for Lynn Dobosz owning property at 254 West Lk.Rd. PY was withdrawn by the applicant (letter on file) prior to the scheduled monthly zoning board meeting.

Application #934 for Efrim Adnopoiz owning property at 820 East Bluff Dr. to request an area variance for a set of stairs that will give access to the area of the property below the driveway. The area variance request is for a rear yard setback.

Mr. Adnopoiz and his contractor, Dale Lane, were present to answer questions for board members.

The proposed set of stairs would begin within the road right-of-way, having 3' wide stairs, a small 4' x 8' landing then another flight of stairs down to the driveway area.

The area of the stairs within the road right-of-way is an issue that has to be discussed by the applicant with the Town Highway Superintendent and the Town Board.

Mr. Adnopo has written a letter (copy on file) which agrees to hold the Town of Jerusalem free from any liability in case of damage to the stairs during any widening of the road or any work that is done to the road as routine highway maintenance.

Chairman R.Rubin stated that there has been a zoning change proposed which has not been to a public hearing as yet which would allow stair access from the edge of the road or 24.75 ft. from the center of the highway to the lake with landings(if included) to be no greater than 16 sq. ft. and not enclosed. This is still in the proposal stage.

It was suggested that some type of stone or landscaping material could be used for the starting of the stairs that is within the road right-of-way.

The area variance test questions were reviewed with the following results: #1(0-yes, 5-no), #2(1-yes, 4-no), #3(1-yes, 4-no), #4(0-yes, 5-no), #5(4-yes, 1-no).

R.Rubin made a motion that the request for rear yard setback be granted provided that the top step be no closer to the center of the highway than 24.75 ft. and any landings that are constructed in connection with the stairway be no larger than 16 sq. ft. and the landing is not be enclosed.

The Board was in agreement that this is a SEQR Type II action.

The motion was seconded by M.Steppe and carried with a poll of the board as follows: J.Bird-grant, G.Herbert-grant, J.Crevelling-grant, M.Steppe-grant, R.Rubin-grant.

OTHER BUSINESS

A question was asked with regards to the steep slopes law and if it was in effect as yet. It was noted that in fact it has been passed by the Town Board and is a local law. Would the steep slope law have an effect on things such as retaining walls that are built away from the lake (those at the water's edge requiring DEC permits) when at the present time there is no building permit required for them. How the law is interpreted will probably determine the impact of this new law.

There being no further business, a motion was made by R.Rubin, seconded by J.Crevelling to adjourn the meeting. Motion carried unanimously (5-yes, 0-no). The meeting was adjourned at 8:20 pm.

Respectfully submitted,
Elaine Nesbit/Secretary

